

AS

Notice of Allowability	Application No.	Applicant(s)	
	09/863,715	NELSON ET AL.	
	Examiner	Art Unit	
	Julian Mercado	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2-25-04.
2. ☒ The allowed claim(s) is/are 2-21.
3. ☒ The drawings filed on 23 May 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Remarks

This Office action is responsive to applicant's amendment filed February 25, 2004.

Claim 1 has been canceled. Claims 2-21 are pending.

Claim Rejections - 35 USC § 102 and 103

The November 14, 2003 Office action set forth a Final rejection for claims 1, 2 and 4-6.

Applicant's amendment has obviated the Final rejection for the following reasons:

The rejection of claim 1 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) based on Shinoki et al. is deemed moot in view of the cancellation of this claim. For similar reasons, the rejection of claim 1 under 35 U.S.C. 103(a) based on DuBose and Tsukui et al. has been withdrawn.

Claims 2 and 4-6 have been amended to depend on independent claim 21. Thus, the rejection of claim 2 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) based on Shinoki et al. (U.S. Pat. 5,190,726) has been obviated. For similar reasons, the rejection of claim 2 under 35 U.S.C. 103(a) based on DuBose (U.S. Pat. 6,013,385) and Tsukui et al. (JP Pat. 62-176064) has been obviated.

Allowable Subject Matter

The June 4, 2003 and November 14, 2003 Office actions had objected to claims 3 and 7-9 as being dependent upon a rejected base claim, but indicated these claims as allowable if

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rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant's present amendment has complied with the allowability of claims 3 and 7-9 by such an amendment, thus, claims 3 and 7-9 are allowed.

Claims 10-21 are allowed for the reasons set forth in the prior Office action.

Claims 2 and 4-6 are allowed as each claim has been amended to depend on an allowable independent claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature, possibly reading "J. Smith", enclosed within a large, loopy oval shape.A handwritten signature, possibly reading "Patrick Ryan", consisting of a stylized "W" followed by a checkmark-like flourish.

Patrick Ryan
Supervisory Patent Examiner
Technology Center 1700